

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

HENRY L. MILLER,

Plaintiff,

Case. No. 17-12788

v.

Honorable Thomas L. Ludington
Magistrate Judge David R. Grand

NANCY A. BERRYHILL,

Defendant.

**ORDER ADOPTING REPORT & RECOMMENDATION, GRANTING DEFENDANT'S
MOTION FOR SUMMARY JUDGMENT, DENYING PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT, AND AFFIRMING THE DECISION OF THE
COMMISSIONER**

On December 31, 2014, Plaintiff Miller filed an application for SSI, alleging a disability onset date of March 6, 2007. (Tr. 104, 167, 180, 198). This application was denied at the initial level. (Tr. 104). Miller filed a timely request for an administrative hearing, which was held on June 22, 2016, before ALJ Jan Leventer. (Tr. 32-64). On August 5, 2016, the ALJ issued a written decision finding that Miller is not disabled under the Act. (Tr. 18-31). On June 27, 2017, the Appeals Council denied review. (Tr. 1-6). Miller timely filed for judicial review of the final decision on August 24, 2017. ECF No. 1. The matter was referred to Magistrate Judge David Grand. ECF No. 4. The parties filed cross-motions for summary judgment (ECF Nos. 16, 17), and Miller did not file a reply.

On May 29, 2018, Judge Grand issued a report finding that the ALJ'S decision that Plaintiff is not disabled was supported by substantial evidence. ECF No. 19. Judge Grand recommended that the Court grant Defendant's motion for summary judgment, deny Plaintiff's motion for summary judgment, and affirm the decision of the Commissioner.

Although the magistrate judge's report explicitly states that the parties to this action could object to and seek review of the recommendation within fourteen days of service of the report, neither party has filed any objections. The election not to file objections to the magistrate judge's report releases the Court from its duty to independently review the record. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). The failure to file objections to the report and recommendation waives any further right to appeal.

Accordingly, it is **ORDERED** that the magistrate judge's report and recommendation, ECF No. 18, is **ADOPTED**.

It is further **ORDERED** that Plaintiff's Motion for Summary Judgment, ECF No. 16, is **DENIED**.

It is further **ORDERED** that Defendant's Motion for Summary Judgment, ECF No. 17, is **GRANTED**

It is further **ORDERED** that the findings of the Commissioner are **AFFIRMED**.

It is further **ORDERED** that this case is **DISMISSED**.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: June 19, 2018

<p style="text-align: center;">PROOF OF SERVICE</p> <p>The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on June 19, 2018.</p> <p style="text-align: right;"><u>s/Kelly Winslow</u> KELLY WINSLOW, Case Manager</p>
